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The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

WILLIAM L.E. DUSSAULT, Guardian Ad  
Litem for J.B., a minor; TIMOTHY and  
ESTHER BUCKMAN, wife and husband and  
parents of J.B.,

Plaintiffs,

v.

PENINSULA WOMEN'S CLINIC, P.L.L.C., a  
Washington Corporation; ROBERT H.  
PALMER, JR., M.D.; DEBORAH G. BOPP,  
R.N., C.N.M., A.R.N.P.; CLALLAM  
COUNTY PHD #2 d/b/a OLYMPIC  
MEDICAL CENTER; CATHY L. REGISTER,  
R.N.; and Unknown John and Jane Does,

Defendants.

CASE NO. C06-5297RJB

**AMENDED FINDINGS AND ORDER  
APPROVING SETTLEMENT OF ALL  
CLAIMS OF THE MINOR, PAYMENT OF  
ATTORNEY FEES AND COSTS,  
PAYMENT OF GUARDIAN AD LITEM  
FEES AND COSTS, AND APPOINTMENT  
OF ATTORNEY FOR SPECIAL NEEDS  
TRUST**

Hearing Date: Thursday, May 3, 2007

THIS MATTER having come on before the above titled Court on Petition of the Attorneys  
for Minor Child and the Guardian *Ad Litem* herein, the Court having reviewed:

**FINDINGS AND ORDER APPROVING SETTLEMENT OF ALL  
CLAIMS OF THE MINOR, PAYMENT OF ATTORNEY FEES  
AND COSTS, PAYMENT OF GUARDIAN AD LITEM FEES AND  
COSTS, AND APPOINTMENT ATTORNEY FOR SPECIAL  
NEEDS TRUST - 1**  
CASE NO. C06-5297RJB

**CAROL L. HEPBURN, P.S.**  
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- 3 1. The Petitions for Approval of Partial and Final Minor Settlements, Fees and Costs,
- 4 and Appointment Limited Guardian in this matter;
- 5 2. The Declarations and attachments of Counsel J. William Savage;
- 6 3. The Initial Guardian *Ad Litem* Report and Recommendations;
- 7 4. The Guardian *Ad Litem* Fee Declaration filed March 22, 2007;
- 8 5. The Supplemental Guardian *Ad Litem* Report and Recommendations;
- 9 6. The Supplemental Guardian *Ad Litem* Fee Declaration;
- 10 7. The Notice to Interested Parties filed March 23, 2007;
- 11 8. The Notice to Interested Parties filed April 27, 2007;
- 12 9. The Declarations and attachments of Carol L. Hepburn filed May 2, 2007;
- 13 10. The entire file; and the court having heard the statements of the Guardian *Ad Litem*,
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- 16 counsel, and of Timothy Buckman, father of J.B., in open court, Mr. Buckman appearing by
- 17 telephone, and

18 Good cause appearing, now therefore the Court enters the following:

19 I.FINDINGS

20

21 1.1 The settlements tentatively reached of the minor child's personal injury claims

22 against Clallam County PHD #2 d/b/a Olympic Medical Center and Cathy Register, R.N., in the

23 amount of \$375,000.00, and against PENINSULA WOMEN'S CLINIC, P.L.L.C.; ROBERT H.

24 PALMER, JR., M.D.; DEBORAH G. BOPP, R.N., C.N.M., A.R.N.P.; MADELINE

25 HARRINGTON, M.D. and PENINSULA CHILDREN'S CLINIC in the total amount of

26 \$500,000.00 are fair, appropriate, reasonable and in the best interests of the child. The Guardian

27 *Ad Litem* is authorized and directed to execute any and all instruments necessary to effect the

28 same on behalf of J.B., and discharging said Defendants;

**FINDINGS AND ORDER APPROVING SETTLEMENT OF ALL  
CLAIMS OF THE MINOR, PAYMENT OF ATTORNEY FEES  
AND COSTS, PAYMENT OF GUARDIAN AD LITEM FEES AND  
COSTS, AND APPOINTMENT ATTORNEY FOR SPECIAL  
NEEDS TRUST - 2  
CASE NO. C06-5297RJB**

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1.2 Both the parents of the minor child and the Guardian *Ad Litem* have signed fee agreements with Plaintiffs' counsel providing for payment of a 40% professional negligence contingent fee plus reimbursement of litigation costs advanced.

1.3 The attorney fees of \$350,000.00, which is calculated pursuant to agreement, are appropriate, fair and reasonable for prosecution of these complex claims on behalf of the minor child. The court deducted \$2,521.29 travel costs from the \$76,303.60 requested because responsibility for those expenses was not clearly set out in the fee agreements.

1.4 The litigation costs of \$73,782.31 are appropriate, fair and reasonable for prosecution of these claims on behalf of the minor child.

1.5 The Guardian *Ad Litem*, fees requested of \$21,631.49 are appropriate, fair and reasonable.

1.6 The lien held by the State of Washington has been negotiated to a tentative resolution providing for satisfaction upon payment of \$5,908.60. This is a fair and reasonable amount. It is in the best interest of the child that the state lien claims of Alaska and Oregon be negotiated pursuant to the U.S. Supreme Court's decision in Ahlborn, 547 US 268, 126 S.Ct. 1752 (May 1, 2006) to satisfactory resolution, if possible, or if not possible that all of the liens be brought back to this Court for resolution. An additional \$14,555.00 should be reserved for satisfaction of these liens.

1.7 A qualified special needs trust approved by this Court and overseen by Pierce County Superior Court pursuant to SPR 98.16 is the most appropriate option for receipt and management of the net settlement proceeds remaining available for the benefit of J.B.;

1.8 The settlement proceeds should not be deemed to have been received by, to be available to, or to have come into the possession or under the control of, J.B., his parents, or any guardian appointed on his behalf;

1.9 It is further in the best interests of the child that the Guardian *Ad Litem*, William E. Dussault, an attorney with appropriate background and expertise to develop a special needs settlement Trust for the benefit of J.B. which is in compliance with SPR 98.16W and 42 USC 1396(d)(4)(A) is hereby appointed to draft such a trust at the sole expense of defendants Palmer, Bopp & Harrington, pursuant to their agreement;

1.10 Such trust should be submitted to this Court for approval and the net settlement proceeds from this portion of the settlement remaining for the benefit of J.B. in the approximate amount of \$412,656.51 (after payment of all fees, costs, and other claims approved herein) be paid to the Trustee of the Special Needs Trust for the benefit of J.B. to be held, managed and distributed pursuant to all of the terms and conditions of said Court-approved Trust. The total proceeds from settlement with all parties remaining for the benefit of J.B. will be in the approximate amount of \$412,656.51, plus any funds remaining after satisfaction of Alaska and Oregon liens.

1.11 The court heard and carefully considered the comments and concerns of J.B.'s father, Timothy Buckman, and, in particular, his concerns about exactly how the funds available will be spent for J.B.'s benefit. Those concerns are not now before this court, but should be addressed through the special needs trust to be established.

Based on the foregoing Findings, the Court enters the following:

## II. ORDER

2.1 The proposed settlement of the personal injury claim of the minor child J.B., against CLALLAM COUNTY PHD #2 D/B/A OLYMPIC MEDICAL CENTER and CATHY REGISTER, R.N., for personal injuries sustained on June 9, 2001 for \$375,000.00 gross proceeds is approved and the Guardian *Ad Litem* William L. E. Dussault is hereby granted the authority to sign, and he is directed to sign, appropriate releases and closing documents for resolution and partial settlement of the minor's claim in addition to his other duties.

2.2 CLALLAM COUNTY PHD #2 D/B/A OLYMPIC MEDICAL CENTER and CATHY REGISTER, R.N. shall cause to be paid to Plaintiff's counsel Carol L. Hepburn, Carol L. Hepburn, P.S. in trust on behalf of the minor child, J.B., the sum of \$375,000.00 in settlement of all claims against them herein.

2.3 The proposed settlement of the personal injury claims of the minor child J.B., against PENINSULA WOMEN'S CLINIC, P.L.L.C.; ROBERT H. PALMER, JR., M.D.; DEBORAH G. BOPP, R.N., C.N.M., A.R.N.P.; MADELINE HARRINGTON, M.D., and PENINSULA CHILDREN'S CLINIC., for personal injuries sustained on June 9, 2001 for \$500,000.00 gross proceeds is approved and the Guardian *Ad Litem* William L. E. Dussault is hereby granted the authority to sign, and he is directed to sign, appropriate releases and closing documents for resolution and partial settlement of the minor's claim in addition to his other duties.

2.4 PENINSULA WOMEN'S CLINIC, P.L.L.C.; ROBERT H. PALMER, JR., M.D.; DEBORAH G. BOPP, R.N., C.N.M., A.R.N.P.; MADELINE HARRINGTON, M.D., and PENINSULA CHILDREN'S CLINIC shall cause to be paid to Plaintiff's counsel Carol L. Hepburn, Carol L. Hepburn, P.S. in trust on behalf of the minor child, J.B., the sum of \$500,000.00 in settlement of all claims against them herein.

**FINDINGS AND ORDER APPROVING SETTLEMENT OF ALL CLAIMS OF THE MINOR, PAYMENT OF ATTORNEY FEES AND COSTS, PAYMENT OF GUARDIAN AD LITEM FEES AND COSTS, AND APPOINTMENT ATTORNEY FOR SPECIAL NEEDS TRUST - 5**  
CASE NO. C06-5297RJB

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2.5 The proposed settlement in the amount of the lien held by the State of Washington for reimbursement of Medicaid moneys paid on behalf of the minor child J.B. for \$5,908.60 is hereby approved and Plaintiff's counsel is directed to satisfy this lien from the settlement proceeds herein.

2.6 The Guardian *Ad Litem*, and/or counsel for the Guardian *Ad Litem*, shall negotiate the amount of the state lien claims held by Oregon and Alaska pursuant to the U.S. Supreme Court's decision in *Ahlborn*, 547 US 268, 126 S.Ct. 1752 (May 1, 2006). The sum of \$14,555.00 shall be reserved from the settlement proceeds for this purpose. In the event a satisfactory negotiation of those multi-state claims cannot be made, they shall be brought back to this court for hearing and resolution.

2.7 Fees and cost for Mr. William L. E. Dussault for his service as Guardian *Ad Litem* in the amount of \$21,631.49 shall be paid to Dussault Law Group from the settlement proceeds.

2.8 The attorney fees of \$350,000.00, and the litigation costs of \$73,782.31 shall be paid from the settlement proceeds to Plaintiff's counsel, Carol L. Hepburn, P.S.

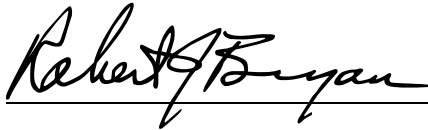
2.9 The settlement proceeds shall not be deemed to have been received by, to be available to, or to have come into the possession or under the control of, J.B., his parents, or any guardian appointed on his behalf;

2.10 William E. Dussault, the Guardian *Ad Litem*, who is an attorney with appropriate background and expertise to develop a special needs settlement Trust for the benefit of J.B. which is in compliance with SPR 98.16W and 42 USC 1396(d)(4)(A) is hereby appointed to draft such a trust, at the sole expense of defendants Palmer, Bopp and Harrington;

2.11 Said trust shall be submitted to this Court for approval and the net settlement proceeds remaining for the benefit of J.B. in the approximate total amount of \$412,656.31 (after

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3 payment of all fees, costs, reserves and other claims approved herein) shall be paid to the Trustee  
4 of the Special Needs Trust for management of the net settlement funds available to J.B. with  
5 ongoing supervision of that trust directed to the Pierce County Superior Court. The qualified  
6 special needs trust shall also receive any funds remaining after resolution of the lien claims  
7 herein.

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9 Dated this 7th day of May, 2007.

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12 ROBERT J. BRYAN  
13 United States District Judge

14 Presented by:

15 CAROL L. HEPBURN, P.S.

16 s/Carol L. Hepburn

17 Carol L. Hepburn, WSBA 8732  
18 Attorney for Plaintiffs

19 J. WILLIAM SAVAGE, P.C.

20 s/J. William Savage

21 J. William Savage, WSBA #32148  
22 Attorney for Plaintiffs  
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